

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INDIAN ADOPTION PETITION NO. 3 OF 2023

WITH

JUDGE'S ORDER NO. 3 OF 2023

IN

INDIAN ADOPTION PETITION NO. 3 OF 2023

(Corrected as per speaking to the minutes of the order dated 20/4/2023)

Bal Asha Trust

...Petitioner

and

1) Shyam Sundar Dhruvan

2) Anusha Kousik

...Prospective adoptive
Parents

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Mr. Rakesh Kapoor i/by. Rakesh L. Kapoor & Co. for petitioners.

Ms. Vandana Chincholkar, Scrutiny Officer, Indian Council of Social Welfare.

Ms. Shonali Dighe, Chamber Registrar.

CORAM : MANISH PITALE, J

DATE : 9th MARCH, 2023

P.C. :

. The petitioner is a Social Welfare Organization, duly recognized by the Government as a Specialized Adoption Agency under Section 65 of the Juvenile Justice (Care and Protection of Children) Act, 2015. The present petition is filed by the petitioner -

Trust for adoption of the minor girl child Vaishnavi by the prospective adoptive parents who have also joined the petitioner – Trust in the present petition. The minor girl child was born on 25/9/2021 and she is in the care and custody of petitioner – Trust, who now intends to give the child in adoption to the prospective adoptive parents under the provisions of the said Act.

2. The prospective adoptive parents are residents of Chennai, Tamilnadu and they are registered in the Child Adoption Resource Information and Guidance System. They were directed to apply to the petitioner – Trust for adoption of the minor child. The adoption committee of the petitioner – Trust has found the prospective adoptive parents eligible and suitable for adoption of the minor girl child as per the criteria mentioned under Section 57 of the said Act, read with regulation 5 of the Adoption Regulations.

3. The minor child was born on 25/9/2021 and she was found abandoned and then she was admitted to the petitioner institution on the same day as per order passed by the Child Welfare Committee (CWC), Mumbai City-I. On 20/4/2022, the CWC declared the minor child legally free for adoption under Section 38 of the said Act. The prospective adoptive parents were married on 30/11/2008 and they do not have any biological children. They have expressed that they would like to adopt the minor girl child Vaishnavi to

complete their family. They have jointly consented to this adoption and they have executed a joint consent document as required under the provisions of the said Act. The prospective adoptive father is a self-employed person, being Director of a company called Neos Air Filtration Pvt. Ltd. at Chennai. His annual income for the assessment year 2021-2022, is stated to be Rs.9,51,980/-. The prospective adoptive mother is working as a Project Director with Inception Business Services, Chennai since 13/6/2012 and her gross salary is stated to be Rs.1,25,000/-. The copies of documents supporting the said statements are placed on record, including Income Tax returns and pay slips etc.

4. The petitioner has also placed on record home visit report of the social worker of Trust at Chennai, which also recommends the prospective adoptive parents as suitable for adopting the minor girl child.

5. Mr. Kapoor, learned counsel for the petitioner – Trust relied upon the aforesaid material in order to contend that the present petition deserves to be allowed. The Scrutiny Officer Ms. Vandana Chincholkar has tendered the report Indian Council of Social Welfare, the same is taken on record and marked 'X'. The report favourably recommends the petitioner for adoption of the girl child.

6. Having considered the material on record, this Court is satisfied that the present petition can be allowed. It is stated that the minor child is with the prospective adoptive parents since August 2022.

7. The report submitted by the Indian Council of Social Welfare supports the assertions made in the petition. The prospective adoptive parents undertake to invest sum of Rs.1 Lakh in LIC's Single Premium Endowment Policy, in the name of the minor child. They will not withdraw the said invested amount till she attains the age of majority.

8. It is significant to note that a recent order passed by the Division Bench of this Court in the case of *Nisha Pradeep Pandya alias Nisha Amit Gor and Anr. Vs. Union of India and Ors. in Writ Petition No.32065/2022 on 10/1/2023*, has specifically granted a direction as an ad-interim order that pending the challenge to the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the petitions already filed and pending can be placed before the concerned Court and that adjudication of such matters can continue during the pendency of challenge raised against the Amendment Act. The relevant portion of said order of Division Bench reads as follows :

“8. In the meantime, there will be an ad-interim order

only until the next date in terms of prayer clauses (d), (e) and (f) of the petition which reads as follows:

(d) Pending the final hearing and disposal of the present petition, the Hon'ble Court may be pleased to stay the effect, implementation and purport of the letter dated 30th September, 2022 issued by Respondent No.2;

(e) Pending the final hearing and disposal of the present petition, the Hon'ble Court may be pleased to direct the Respondents not to transfer pending adoption matters before the District Magistrates for adjudication.

(f) Pending the final hearing and disposal of the present petition, the Hon'ble Court may be pleased to direct the Hon'ble Courts to continue with the adjudication of the adoption matters that are pending on their record and file.”

9. In view of the above, the petition is allowed in terms of prayer clauses (a) to (d), which read as follows:

(a) That the Prospective Adoptive Parents be given the said child in Adoption and be declared as parents having all parental legal rights, Privileges and responsibilities over the said minor Sitara Dhruvan.

(b) That the Prospective Adoptive Parents may be granted leave to remove the said minor from the jurisdiction of this Hon'ble Court and to take the said minor out of the

jurisdiction of this Hon'ble Court whenever required.

(c) That the concerned Municipal Authority/Birth Certificate Issuing Authority may be directed to issue Birth Certificate in the name of the said minor Sitara Dhruvan born on 25/09/2021 and stating thereon that the Prospective Adoptive Parents are the Parents of the said minor.

(d) That the Prospective Adoptive Parents be allowed to change the name of the minor from Vaishnavi to 'Sitara Dhruvan' born on 25/9/2021.

10. Judge's order is signed separately.

(MANISH PITALE, J)